

ASSAULT AND THREAT OF VIOLENCE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Paul Ray

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Criminal Code regarding the offense of assault.

**Highlighted Provisions:**

This bill:

- ▶ modifies the offense of assault against certain persons to include a threat of violence; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-5-102.3**, as enacted by Laws of Utah 1992, Chapter 163

**76-5-102.4**, as last amended by Laws of Utah 2014, Chapter 189

**76-5-102.7**, as last amended by Laws of Utah 2016, Chapter 339

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-5-102.3** is amended to read:

**76-5-102.3. Assault against school employees.**

(1) Any person who ~~[assaults]~~ commits an assault as defined in Section [76-5-102](#), or commits a threat of violence as defined in Section [76-5-107](#), against an employee of a public or

private school, with knowledge that the individual is an employee, and when the employee is acting within the scope of his authority as an employee, is guilty of a class A misdemeanor.

(2) As used in this section, "employee" includes a volunteer.

Section 2. Section **76-5-102.4** is amended to read:

**76-5-102.4. Assault against peace officer or a military servicemember in uniform**

**-- Penalties.**

(1) As used in this section:

(a) "Assault" means the same as that term is defined in Section [76-5-102](#).

~~[(a)]~~ (b) "Military servicemember in uniform" means:

(i) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or

(ii) a member of the National Guard serving as provided in Section [39-1-5](#) or [39-1-9](#).

~~[(b)]~~ (c) "Peace officer" means a law enforcement officer certified under Section [53-13-103](#).

(d) "Threat of violence" means the same as that term is defined in Section [76-5-107](#).

(2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3) and (4), who:

(a) ~~[assaults]~~ commits an assault or threat of violence against a peace officer, with knowledge that the person is a peace officer, and when the peace officer is acting within the scope of authority as a peace officer; or

(b) ~~[assaults]~~ commits an assault or threat of violence against a military servicemember in uniform when that servicemember is on orders and acting within the scope of authority granted to the military servicemember in uniform.

(3) A person who violates Subsection (2) is guilty of a third degree felony if the person:

(a) has been previously convicted of a class A misdemeanor or a felony violation of this section; or

(b) the person causes substantial bodily injury.

(4) A person who violates Subsection (2) is guilty of a second degree felony if the person uses:

(a) a dangerous weapon as defined in Section 76-1-601; or

(b) other means or force likely to produce death or serious bodily injury.

(5) A person who violates this section shall serve, in jail or another correctional facility, a minimum of:

(a) 90 consecutive days for a second offense; and

(b) 180 consecutive days for each subsequent offense.

(6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

(7) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

Section 3. Section 76-5-102.7 is amended to read:

**76-5-102.7. Assault against health care provider and emergency medical service worker -- Penalty.**

(1) A person who ~~[assaults]~~ commits an assault or threat of violence against a health care provider or emergency medical service worker is guilty of a class A misdemeanor if:

(a) the person is not a prisoner or a person detained under Section 77-7-15;

(b) the person knew that the victim was a health care provider or emergency medical service worker; and

(c) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault.

(2) A person who violates Subsection (1) is guilty of a third degree felony if the person:

(a) causes substantial bodily injury, as defined in Section 76-1-601; and

- 86 (b) acts intentionally or knowingly.
- 87 (3) As used in this section:
- 88 (a) "Assault" means the same as that term is defined in Section [76-5-102](#).
- 89 ~~[(a)]~~ (b) "Emergency medical service worker" means a person certified under Section
- 90 [26-8a-302](#).
- 91 ~~[(b)]~~ (c) "Health care provider" means the same as that term is defined in Section
- 92 [78B-3-403](#).
- 93 (d) "Threat of violence" means the same as that term is defined in Section [76-5-107](#).